

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONOVAN CHAD BREVIK,

Petitioner,

v.

CHARLES SCHUYLER,

Respondent.

No. 2:23-cv-01639-KJM-EFB (HC)

ORDER

Petitioner proceeds without counsel in this petition for writ of habeas under 28 U.S.C. § 2254. On August 5, 2024, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. ECF No. 6. Neither party has filed objections.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court . . .”). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed August 5, 2024 (ECF No. 43), are adopted in full;
2. Respondent's motion to dismiss (ECF No. 29) is DENIED AS MOOT;
3. Petitioner's Second Amended Petition (ECF No. 39) is deemed the operative pleading in this action;
4. Respondent shall file and serve a response to the Second Amended Petition within 60 days of the date of this order, accompanied by all transcripts or other documents relevant to the determination of the issues presented by the petition. *See* Rules Governing § 2254 Cases in the U.S. District Courts, Rules 4 & 5; and
5. Petitioner shall file and serve a reply, if any, within 30 days of service of an answer.

DATED: October 3, 2024.



UNITED STATES DISTRICT JUDGE